

Exhibit E

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**JEFFREY CABE, SEAN FREY, ANITA
POTEETE, RONDA ROHDE, ROBERT
SNELL, JEFFREY MOORE and ELISA
TINNELL, MICHAEL KAP, KAREN
ROBERTSON, JIM WESTRA, JOHNNY
RUIZ, ARCHIE ROBINSON, DECODA
KEYS and NORMA MOODY, Each
Individually and on Behalf of All Others
Similarly Situated,**

Plaintiffs,

v.

**EVERGREEN PACKAGING LLC and
PACTIV EVERGREEN INC.,**

Defendants.

Case No. 1:24-CV-01316

Hon. John Robert Blakey

Hon. Jeffrey T. Gilbert

**DECLARATION OF HURY GOCHEZ-KERR IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION FOR CONDITIONAL CERTIFICATION**

I, Hury Gochez-Kerr, hereby declare as follows:

1. I am over 18 years of age and competent to testify as to the matters in this Declaration. I have personal knowledge of the facts set forth in this declaration, or I have knowledge of such facts based on my review of the business records and files of Fabri-Kal, Corp. (the "Company"). If called as a witness, I could and would testify competently to such facts contained herein.

2. I am the Human Resources Manager at Fabri-Kal's Hazleton, Pennsylvania location. As the Human Resources Manager, I am responsible for employee relations, hourly employee payroll, wage & hour compliance, and charges and investigations.

3. Hazleton is a union facility with approximately 257 employees, inclusive of non-exempt and exempt employees, most of which are non-exempt employees.

4. The Hazleton facility employs a workforce that is represented by a union and operates and runs 24 hours a day, 7-days a week. Production workers operate on rotating twelve-hour shifts of either 6:30 am to 6:30 pm or 6:30 pm to 6:30 am. One week, production workers work 36-hours, while the following week they work 48 hours and are paid one and a half times their rate for all hours over 40 hours in a week. We also have nonexempt Work Group Leaders who similarly work twelve-hour shifts.

5. For their convenience and to ensure continuity of production, production workers are able to utilize a 30-minute grace period at the start of their shift. For example, an employee working the 6:30 am to 6:30 pm shift is able to clock in starting at 6:00 am. Of course, employees do not perform any work during that time, nor are they expected or required to do so. Once production workers are ready to clock out at the end of the shift, they are provided a 7-minute grace period to punch-out. For example, a production worker with a scheduled shift end time of 6:30 pm is able to punch out anytime from 6:30 pm through 6:37 pm. Any punches outside of the 30-minute and 7-minute grace periods are paid to the punch.

6. Work Group Leaders are always paid to the punch and do not use the grace periods.

7. Mr. Michael Kapolka is a former operator of the Hazleton facility. In accordance with the Collective Bargaining Agreement, Mr. Kapolka was hired as a probationary employee and was represented by the union. Mr. Kapolka voluntarily resigned on May 1, 2024, and his last day worked at the facility was March 17, 2024.

8. Most individuals wear their safety boots when they come to the facility. The only additional PPE that is required is a beard net, if needed, hair net, safety glasses and ear plugs, which should be put on after employees have punched-in and prior to stepping out onto the production floor.

9. I am unaware of any complaints from employees who claim to have worked during the 30-minute grace period window. I've never received a complaint from an employee about working off-the-clock or working while not getting paid. Managers at the Hazleton facility are directed to ensure that employees are not working off-the-clock. Importantly, it is my understanding that all production workers at the facility understand that they should not be working off-the-clock.

10. Production workers have avenues to adjust their time so that they are paid for all hours worked – this includes the production worker working with their supervisors to review their time records and if there is a discrepancy that needs rectified, the supervisor will adjust the Timecard so that the employee can properly be paid. The employee or their supervisor can advise Human Resources, or the individual charged with maintaining the timekeeping system that they need a time adjustment, and we would promptly address it.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge and that I would so testify if called upon to do so in this matter.

Executed this 28TH day of June 2024 in Hazleton Pennsylvania.


Hury Gochez-Kerr